ORDINANCE NUMBER 2

SERIES 1977

AN ORDINANCE PROVIDING FOR A CONTRACT REVIEW BOARD, DESIGNATING DUTIES, AUTHORITY AND LIMITATIONS OF THE BOARD, AND DECLARING AN EMERGENCY.

THE CITY OF ELGIN DOES ORDAIN AS FOLLOWS:

Section 1: CONTRACT REVIEW BOARD. The City Council of the City of Elgin is hereby designated as the local Contract Review Board and relative to contract concerns of the City of Elgin shall have all the powers granted to the State Public Contract Review Board.

Section 2: DEFINITIONS. The following words and phrases shall mean:

(1) Public Contract. Any purchase, lease or sale by the City of Elgin of personal property, public improvements or services other than agreements which are exclusively for personal service.

(2) Public Improvement. Any construction of improvements on real property by or for the City of Elgin.

(3) Board. The local contract review board as established in Section 1 of this ordinance.

Section 3: COMPETITIVE BIDS; EXEMPTIONS.

(1) All contracts shall be based upon competitive bids except:

(a) Contracts made with, or the cost of which is provided by, other public agencies or the Federal Government.

(b) Contracts for any purchase the amount of which is less than $1,000.00.

(2) The contract review board may by resolution exempt other contracts from competitive bidding if it finds:

(a) The item to be purchased is available only through one company, firm or individual, or

(b) The lack of bids will not result in favoritism or substantially diminish competition in awarding the contract, or

(c) The exemption will result in substantial cost savings. In making such finding, the board may consider the type, cost,

amount of the contract, number of persons available to bid, such other factors as the board may deem appropriate.

Section 4: EMERGENCY CONTRACTS. A contract may also be exempt from competitive bidding if the board, by unanimous vote, determines that emergency conditions require prompt execution of the contract. A determination of such an emergency shall be entered into the record of the meeting at which the determination was made.

Section 5: BRAND NAME SPECIFICATION IN CONTRACTS.

(1) Specifications for contracts shall not require any product by any brand name or make, nor the product of any particular manufacturer or seller, unless the product is exempted from this requirement by the board under this section. However, this section shall not be construed to prevent reference in the specificiation to a particular product as a description of the type of item required.

(2) The board may by resolution exempt certain products or classes of products upon any of the following findings:

(a) It is unlikely that such exemption will encourage favoritism in the awarding of the contract or substantially diminish competition.

(b) The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings.

(c) There is only one manufacturer or seller of the product or the quality required.

(d) Efficient utilization of existing equipment or supplies require the acquisition of compatible equipment or supplies.

Section 6: BID REJECTION.

(1) The City Council or an official designated by the City Council may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may reject all bids if it is in the public interest to do so.

(2) The City Council may make such investigation as is necessary

to determine whether a person is qualified. If a bidder or prospective bidder fails to supply promptly information as requested by the City Council pursuant to such investigation, such failure is grounds for disqualification.

(3) Any information voluntarily submitted by a bidder or prospective bidder pursuant to investigation under subsection (2) of this section shall be deemed a trade secret pursuant to paragraph D and E of ORS 192.500 (1) if requested by the person submitting the information.

Section 7: BIDDER DISQUALIFICATION. The City Council or an official designated by the Council may disqualify any person as a bidder on a contract if:

(1) The person does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;

(2) The person does not have equipment available to perform the contract;

(3) The person does not have personnel of sufficient experience to perform the contract; or

(4) The person has repeatedly breached contractual obligations to public and private contracting agencies.

Section 8: APPEAL OF DISQUALIFICATION. A person who has been disqualified as a bidder may appeal such disqualification to the board as provided in this section:

(1) The person shall, within three business days after receipt of notice of disqualification, in writing notify the Mayor that he wishes to appeal his disqualification.

(2) Immediately upon receipt of such written notice of appeal, the Mayor shall inform the board.

(3) Upon receipt of notice of appeal, the board shall notify the person appealing of the time and place of the hearing.

(4) The board shall conduct the hearing according to the provisions of ORS 279.045 (3) and decide the appeal within ten (10) days after receiving the notification and shall set forth in writing the reasons for its decisions.

Section 9: ADDITIONAL AUTHORITY OF THE BOARD. In addition to the powers and duties established by this ordinance, the board shall have such additional powers as authorized by state law, including but not limited to the following:

(1) Authority to require pre-qualification for persons desiring to bid for public improvement contracts.

(2) Authority to grant exemptions from bid security and performance bond requirements required on contracts for public improvements.

Section 10: EMERGENCY CLAUSE. Inasmuch as it is essential to the preservation of the public health, welfare, peace and safety of the City of Elgin that this ordinance be effective immediately upon its enactment, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED and ADOPTED this 11 day of January, 1977, by Sup (6) councilmen voting therefor.

APPROVED this 11 day of January, 1977.

Rodney Fleischfl
Mayor

ATTEST:

Ron Scoubee
City Recorder